

L. A. WALSTROM, JR.

IBLA 76-465

Decided June 14, 1976

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting nine coal prospecting permit applications W 53532, etc.

Affirmed.

1. Coal Leases and Permits: Applications

Decisions rejecting coal prospecting permit applications will be affirmed where the decision was made pursuant to and in accordance with Secretarial Order No. 2952 of February 13, 1973.

APPEARANCES: L. A. Walstrom, Jr., pro se.

OPINION BY ADMINISTRATIVE JUDGE RITVO

L. A. Walstrom, Jr., has appealed from a decision of the Wyoming State Office, Bureau of Land Management, dated January 27, 1976, rejecting nine coal prospecting permit applications. 1/ The decision was based on Secretary's Order No. 2952 of February 13, 1973, which directed that all applications for coal prospecting permits shall be rejected until further notice.

Appellant points out that new sources of domestic energy are now needed more than ever. He asks that the permits be reconsidered and ultimately issued to him as the current Secretary of the Interior has recently stated that prospecting permits will be issued and Order No. 2952 is being canceled. He is, in effect, asking that his applications be held in suspense until the Secretary issues a new order.

1/ The applications involved are W 53532, W 53533, W 53534, W 53535, W 53536, W 53537, W 53538, W 53539, W 53540.

[1] Order 2952 mandated the rejection of all coal prospecting permit applications, including pending and future applications. It directed that no permit shall be issued until further notice in order to allow the preparation of a program for the more orderly development of coal resources under the Mineral Leasing Act, 30 U.S.C. § 201(b) (1970), with proper regard for the protection of the environment.

In D. C. Anderson, 23 IBLA 161 (1975); Rod Shepard, 22 IBLA 60 (1975); Charlene Dickman, 21 IBLA 397 (1975); Marvin E. Weaster, 10 IBLA 277 (1973); and other cases, this Board held that Order No. 2952 precludes the issuance of any new coal prospecting permits pending further instructions from the Secretary. The Secretary has not yet issued new instructions or relaxed the mandate of Order No. 2952 requiring rejection of all prospecting permit applications. Until he does, this Board and all other Department officials are required to carry out his directive. See Krueger v. Morton, Civil No. 74-1256 (D.D.C., January 28, 1975), appeal docketed, No. 75-1456 D.C. Cir., March 28, 1975. The propriety of Order No. 2952 has been upheld. Hunter v. Morton, 529 F.2d 645 (10th Cir. 1975).

We have no authority to hold an application in suspense until a new order is issued. See e.g., D. C. Anderson, supra. The order directed that any applications submitted in the future shall be promptly rejected.

In this case the Wyoming State Office correctly applied the instructions of the Secretary's order and properly rejected appellant's application.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Martin Ritvo

Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

